

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA, :
Plaintiff, : Case No. 2:09-cr-002
vs. : JUDGE MARBLEY
CARNELL R. SCOTT, : STANDARD ACTION DOCKET
Defendant. :
:

**DEFENDANT'S MOTION TO REDUCE SENTENCE, PURSUANT TO
18 U.S.C. § 3582(c)(2), IN AN "AGREED DISPOSITION CASE"**

Pursuant to 18 U.S.C. § 3582(c)(2), Defendant Scott, through undersigned counsel, hereby moves this Court for an Order reducing his sentence on Counts One (1) and Two (2) from 120 months to 100 months based on the retroactive application of the November 1, 2014 drug amendment. This sentence would run but consecutively to the 60 month sentence imposed on Count Five of the indictment.

Respectfully submitted,

/s/ Laura E. Byrum
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Attorney for Defendant
Carnell R. Scott

MEMORANDUM

At Defendant's original sentencing hearing, his total offense level was 28 given the quantity of drugs for which he was held accountable. Moreover, Defendant's criminal history category was determined to be VI. A combination of these two Guideline determinations yielded a sentencing range of 140 to 175 months imprisonment. Defendant was then sentenced to serve 140 months in prison on the controlled substance offense, a 120 month concurrent sentence for being a felon in possession of a firearm, and a consecutive 60 month sentence for his violation of 18 U.S.C. §924(c). This resulted in an aggregate sentence of 200 months. Defendant's sentence was subsequently reduced to 120 months on Count 1 based upon Guideline Amendment 750.

On November 1, 2014, the United States Sentencing Commission promulgated Guideline Amendment 782 which reduced by two levels the guidelines for all drugs, found in USSG § 2D1.1, as well as listed chemicals found in § 2D1.11. Persons who are serving drug sentences are eligible for retroactive application of the guideline as long as they meet certain eligibility criteria.

Recently, counsel for the government, representatives of the United States Probation Office and Assistant Federal Public Defender Gordon Hobson met to consider the merits of Defendant's case. All agreed to recommend to this Court that Defendant met the Commission's eligibility requirements for the retroactive application of the Guideline Amendment 782 to his case.

After the November 1, 2014 drug amendment is retroactively applied, Defendant's total offense level is reduced to 26. This reduction yields a new advisory sentencing range of 100 to 125 months when combined with Defendant's criminal history category. Finally, the parties jointly recommend that this Court reduce Defendant's sentence on Counts One and Two to 100 months.

In arriving at this recommended sentence, the parties ascertained the point in the original Guideline range where Defendant was first sentenced as well as the extent of any downward departure due to his substantial assistance, if applicable. Finally, the parties also considered unique facts about both Defendant's case and behavior while incarcerated to conclude that his early release did not present a danger to the safety of the public.

For the reasons articulated herein, Defendant Carnell R. Scott, through undersigned counsel, herein moves this Court for an Order reducing his sentence on Counts One and Two to 100 months. The sentence on Counts One and Two would run concurrently with each other but consecutively to the 60-month sentence imposed on Count Five, resulting in an aggregate sentence of 160 months. Defendant has been apprised of this proposed agreed resolution and this motion is submitted with both his knowledge and authorization.

Under Amendment 782 a defendant cannot be released from BOP custody until November 1, 2015. If the requested reduction results in defendant's new release date being moved to prior to November 1, 2015, the parties agree that November 1, 2015 should be the agreed upon release date.

Respectfully submitted,

/s/ Laura E. Byrum
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Carnell R. Scott

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the Motion to Reduce Sentence Pursuant to § 3582(c)(2) was served electronically upon Kenneth Parker Assistant United States Attorney, Chief Criminal Division, this 30th day of June 2015.

/s/ Laura E. Byrum
Laura E. Byrum (VA Bar 48150)
Assistant Federal Public Defender

Attorney for Defendant
Carnell R. Scott